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SENATE

{ REPORT
No. 1130 }

CANCEL RESTRICTED FEE PATENTS COVERING LANDS ON THE WINNEBAGO INDIAN RESERVATION

FEBRUARY 16, 1925.—Ordered to be printed

Mr. HARRELD, from the Committee on Indian Affairs, submitted
the following

REPORT

[To accompany H. R. 11358]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 11358) to authorize the Secretary of the Interior to cancel restricted fee patents covering lands on the Winnebago Indian Reservation and to issue trust patents in lieu thereof, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1226, Sixty-eighth Congress, second session, which is appended hereto and made a part of this report.

[House Report No. 1226, Sixty-eighth Congress, second session]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 11358) to authorize the Secretary of the Interior to cancel restricted fee patents covering lands on the Winnebago Indian Reservation and to issue trust patents in lieu thereof, having considered the same, report thereon with a recommendation that it do pass without amendment.

The reasons why this measure should be enacted into law are fully set forth in the report of the Secretary of the Interior which is attached hereto and made a part of this report.

DEPARTMENT OF THE INTERIOR,
Washington, December 23, 1924.

HON. HOMER P. SNYDER,
Chairman Committee on Indian Affairs,
House of Representatives.

MY DEAR MR. SNYDER: Attention is invited to a draft of proposed legislation to authorize the Secretary of the Interior, in his discretion, to cancel certain restricted fee patents covering Indian allotments on the Winnebago Reservation in Nebraska, and to reissue trust patents in lieu thereof conforming to the provisions of the act of February 8, 1887 (24 Stat. L. 388), as amended.

There are 165 allotments on the Winnebago Reservation covered by restricted fee patents of this kind, given under the act of Congress of February 21, 1863 (12 Stat. L. 658), and in all cases, with the exception of 4, the original allottees have died leaving the estates to their heirs. The superintendent reports that these 161 estates have from 4 to 40 heirs each, and in many of the cases a number of the heirs are minors. He advises that if the restricted fee patents should be canceled and trust patents issued in lieu thereof, in conformity to the provisions of the allotment act of February 8, 1887, supra, it would be much less difficult to sell their lands and make final settlement of the estates.

In their present status great difficulty is experienced in making sales because of the fact that purchasers hesitate to enter into negotiations where there are numerous heirs, some of them minors, which make it necessary to obtain the sanction of the court for the conveyance of title by the minors. If these estates were held by the heirs under trust patents the matter of conveying title would be simplified and could be accomplished with the approval of the sale by the Secretary of the Interior and the issuing of fee simple patents to the purchasers under existing laws governing such transactions.

The superintendent of the Winnebago Agency suggested under date of May 8, 1924, that these Indians might be permitted to relinquish the restricted fee patents and have trust patents issued for their lands under the provisions of the act of Congress of October 19, 1888 (25 Stat. L. 611-612). There was doubt however, as to whether that act would cover the situation, and the matter was referred to the Solicitor for the Interior Department for his opinion. His opinion was submitted and approved on August 27, 1924 (M-12509), the last paragraph of which is as follows:

"The act of October 19, 1888, is more nearly applicable to the case of these Winnebago allotments and patents than any other existing legislation. But, as hereinbefore stated, the conditions are not such as to bring the situation within the plain and obvious provisions of said act. In my opinion, the department would not be justified in permitting the allottees in question or their heirs to surrender the restricted fee patents heretofore issued for the sole purpose of obtaining trust patents in lieu thereof covering the same land. However, the situation is apparently one to fully justify an appeal to Congress for relief legislation in the premises."

There is, therefore, submitted herewith a draft of a proposed bill to authorize the Secretary of the Interior to cancel such restricted fee patents and to issue trust patents for the lands involved, conforming to all the provisions of the act of February 8, 1887, supra, except that the trust period prescribed in the trust patents shall run for 10 years from the date of the issuance thereof. The favorable consideration of this proposed legislation is respectfully recommended to your committee.

Very truly yours,

HUBERT WORK.